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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/807,499	11/05/2001	Christian Rosenmund	VOSS1160	9348

28213 7590 02/26/2007
DLA PIPER US LLP
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO, CA 92121-2133

EXAMINER

ULM, JOHN D

ART UNIT	PAPER NUMBER
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1649

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 09/807,499	Applicant(s) ROSENMUND ET AL.	
	Examiner John D. Ulm	Art Unit 1649	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/21/06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,6-14,17-33 and 37-39 is/are pending in the application.
- 4a) Of the above claim(s) 18-21 and 24-33 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2,6-14,17,38 and 39 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 21-23,34,35 and 37 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1) Claims 2, 6 to 14, 17 to 33 and 37 to 39 are pending in the instant application. Claims 10, 11, 21 to 23 and 37 have been amended, claims 5, 15, 16, 34 and 35 have been canceled, and claims 38 and 39 have been added as requested by Applicant in the correspondence filed 21 November of 2006.

2) Claims 18 to 20 and 24 to 33 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to an invention nonelected **without** traverse in the reply filed on 25 October of 2004.

3) Any objection or rejection of record that is not expressly repeated in this action has been overcome by Applicant's response and withdrawn.

4) The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5) The drawings filed on 21 November 2006 do not fully comply with 37 C.F.R. § 1.821(d), which requires a reference to a particular sequence identifier (SEQ ID NO:) be made in the specification and claims wherever a reference is made to that sequence. See M.P.E.P. 2422.02. Figure 4A describes a specific amino acid sequence without employing the required sequence identifier. Correction is required.

6) Claims 21 to 23, 34, 35 and 37 remain objected to as reciting an improper Markush Group for those reasons of record in section 10 of the previous office action. Applicant has traversed this rejection on the premise that it is inconsistent with the definition of unity of invention as outlined in M.P.E.P. 1850. Applicant has confused the concept of unity of invention as this term applies to the composition of a proper Markush group with the meaning of this term as it applies to restriction practice under the Patent

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Cooperation Treaty. Applicant's attention is again directed to M.P.E.P. 803.02 for guidance in the proper constitution of a Markush Group.

7) Claims 2, 6 to 14, 17, 38 and 39 are allowable as written.

8) Applicant's arguments filed 21 November 2006 have been fully considered but they are not persuasive.

9) **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

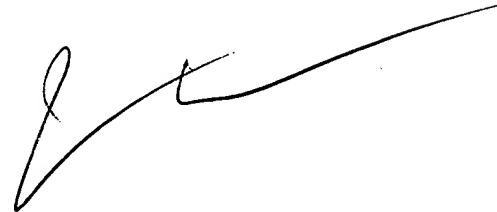
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John D. Ulm whose telephone number is (571) 272-0880. The examiner can normally be reached on 9:00AM to 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Andres can be reached on (571) 272-0867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



JOHN ULM
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